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5 Counsel for Plaintiff,
6 CHARLES RYAN ITALIANO

7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**
SAN DIEGO

9 **CHARLES RYAN ITALIANO**)

10 Plaintiff,)

11 v.)

12 **WELLS FARGO BANK, N.A, and DOES)**

13 **1-10,**)

14 Defendants.)

Civil Action No. **'13CV1323 BTM JMA**

COMPLAINT
DEMAND FOR JURY TRIAL

15
16 **I. INTRODUCTION**

17 1. Defendants made repeated telephone calls to Plaintiff's cellular telephone, in connection
18 with an attempt to collect an alleged disputed debt, despite his repeated requests they
19 cease, and without his consent, including calling him approximately ninety (90) or more
20 times in about fifty-two (52) days, from February to May 2013. Defendant placed
21 numerous telephone calls on the same day (with more than seven (7) calls to Plaintiff on
22 some days). Defendant made repeated telephone calls to Plaintiff's cellular telephone and
23 would abruptly hang up on Plaintiff at times.

24 2. Defendants used automated dialing systems, and pre-recorded messages to telephone
25 Plaintiff's cellular phone in violation of the Telephone Consumer Protection Act, and the
Rosenthal Fair Debt Collection Practices Act.

- 1 3. Plaintiff suffered physical and emotional injury, including severe and substantial
2 emotional distress, and actual damages including but not limited to, anxiety, emotional
3 distress, stress, frustration, depression, loss of concentration, amongst other injuries.
- 4 4. It is the pattern and practice, and the business plan of Defendant to place repeated and
5 continuous telephone calls to consumers in an abusive and intrusive manner, and fail to
6 cease and desist communicating, and to contact consumers at inconvenient times, which
7 conduct has the natural consequence to annoy, oppress, harass and abuse. See *Babida v.*
8 *Wells Fargo*, Case# 11O-CV-184728 (Santa Clara Superior Court 2010), *Wyatt v. Wells*
9 *Fargo*, Case# 11O-CV-175840 (Santa Clara Superior Court 2010); *Walker v. Wells Fargo*,
10 Case# 111-CV-203386 (Santa Clara Superior Court 2011), and *Vierra v. Wells Fargo*,
11 112-cv-226437 (Santa Clara Superior Court 2012).
- 12 5. This is an action for damages brought by a consumer to redress the Defendant's violations
13 of California's Rosenthal Fair Debt Collection Practices Act, Civil Code Section 1788 et seq.
14 (hereinafter, "state act"), and related common law claims, which prohibit debt collectors
15 from engaging in abusive, deceptive and unfair practices in their collection of consumer
16 debts. In 2000 the California legislature incorporated most of the Federal Fair Debt
17 Collection Practices Act (15 U.S.C. 1692 et seq.) into the California FDCPA. See Civil Code
18 §1788.17.
- 19 6. According to 15 U.S.C. Section 1692:

20
21 There is abundant evidence of the use of abusive, deceptive, and unfair debt
22 collection practices by many debt collectors. Abusive debt collection practices
23 contribute to the number of personal bankruptcies, to marital instability, to the loss of
24 jobs, and to **invasions of individual privacy**.

25 II. JURISDICTION AND VENUE

7. Jurisdiction of this Court arises under 15 U.S.C. sec. 1692k(d), 28 U.S.C. sec. 1337, and
supplemental jurisdiction exists for the state law claims pursuant to 28 U.S.C. sec. 1367.

Venue in this District is proper in that Defendant transacts business here and the conduct complained of occurred here.

III. PARTIES

8. Plaintiff Charles Ryan Italiano, (hereinafter “MR. ITALIANO” or “Plaintiff”) is a natural person residing in San Diego County in the State of California.

9. On information and belief, Defendant, WELLS FARGO BANK, N.A. is a foreign business corporation doing business in California (hereinafter “WELLS FARGO”).

WELLS FARGO, in the ordinary course of business, regularly attempts to collect debts on its own behalf.

10. Defendants, WELLS FARGO is a “debt collector” as defined by California Civil Code §1788.2.

11. Defendants, Does 1 through 10 are persons or entities whose true names and capacities are presently unknown to Plaintiff, and who therefore are sued by such fictitious names.

Plaintiff is informed and believes and thereon alleges that each of the fictitiously named Defendants perpetrated some or all of the wrongful acts alleged herein, is responsible in some manner for the matters alleged herein, and is jointly and severally liable to Plaintiff.

Plaintiff will seek leave of court to amend this complaint to state the true names and capacities of such fictitiously named defendants when ascertained.

12. At all times mentioned herein, each defendant was the agent or employee of each of the other defendants and was acting within the course and scope of such agency or employment. The defendants are jointly and severally liable to the Plaintiff for their conduct. Defendants approved, authorized and/or ratified the wrongful acts and omissions herein.

13. Any reference hereinafter to “Defendant” or “Defendants” or “Wells Fargo”, without further qualification, is meant by Plaintiff to refer to each Defendant named above.

IV. FACTUAL ALLEGATIONS

14. Plaintiff alleges on information and belief as follows:

15. Wells Fargo is telephoning Plaintiff in connection with an attempt to collect a consumer debt, a mortgage, incurred by someone else, for personal, family or household purposes..

16. The money Defendant is attempting to collect is a “consumer debt” as that term is defined by California Civil Code § 1788.2(f).

17. On or about early February to mid May 2013, Defendant began to make repeated and continuous telephone calls to Plaintiff in connection with an attempt to collect the alleged debt.

18. From early February 2013 to mid May 2013, Defendants placed more than ninety (90) telephone calls to Plaintiff’s cellular telephone, at times placing multiple calls to Plaintiff’s cellular telephone per day, and on some occasions more than seven (7) times per day. Defendants’ calls were repeated and continuous, and were with such frequency as to be unreasonable and constitute harassment under the circumstances.

19. Upon information and belief Wells Fargo made recordings of its calls to Mr. ITALIANO.

20. MR. ITALIANO informed WELLS FARGO to stop calling him about any debts as he is not the person responsible for incurring the debt, right from the beginning.

21. However the Wells Fargo’s repeated calls to MR. ITALIANO did not stop.

22. WELLS FARGO repeated and continuous calls to MR. ITALIANO from early February 2013 continued well into May 2013.

23. WELLS FARGO telephoned MR. ITALIANO at least once on February 21, 2013.

24. WELLS FARGO telephoned MR. ITALIANO at least once on February 23, 2013.

25. WELLS FARGO telephoned MR. ITALIANO at least once on February 24, 2013.

26. WELLS FARGO telephoned MR. ITALIANO at least three times on February 25, 2013.

1 27. WELLS FARGO telephoned Mr. ITALIANO at least seven times on February 26, 2013.

2 28. WELLS FARGO telephoned MR. ITALIANO at least four times on February 27, 2013.

3 29. MR. ITALIANO on February 27, 2013 called back WELLS FARGO and spoke to a
4 representative explaining that he keeps getting phone calls about a mortgage debt;
5 however he does not have a mortgage with WELLS FARGO.

6 30. WELLS FARGO'S representative told MR. ITALIANO that she could not find his
7 number in WELLS FARGO'S system.

8 31. WELLS FARGO'S representative spoke to a supervisor who then connected MR.
9 ITALIANO to WELLS FARGO'S corporate banking representative.

10 32. MR. ITALIANO was kept on hold for over fifteen (15) minutes waiting for a WELLS
11 FARGO representative to explain to him why he was getting phone calls from WELLS
12 FARGO after they had told him his number did not exist in WELLS FARGO'S system.

13 33. MR. ITALIANO then spent another fifteen (15) minutes with the WELLS FARGO
14 representative, who informed him that she was placing his name on WELLS FARGO'S
15 do not call list, and therefore he would no longer be receiving phone calls from WELLS
16 FARGO, however the calls continued.

17 34. WELLS FARGO telephoned MR. ITALIANO at least once on March 11, 2013.

18 35. WELLS FARGO telephoned MR. ITALIANO at least once on March 12, 2013.

19 36. WELLS FARGO telephoned MR. ITALIANO at least twice on March 13, 2013.

20 37. WELLS FARGO telephoned MR. ITALIANO at least once on March 14, 2013.

21 38. WELLS FARGO telephoned MR. ITALIANO at least once on March 15, 2013.

22 39. WELLS FARGO telephoned MR. ITALIANO at least once on March 16, 2013.

23 40. WELLS FARGO telephoned MR. ITALIANO at least once on March 18, 2013.

24 41. WELLS FARGO telephoned MR. ITALIANO at least twice on March 19, 2013.

25 42. WELLS FARGO telephoned MR. ITALIANO at least twice on March 20, 2013.

43. WELLS FARGO telephoned MR. ITALIANO at least twice on March 21, 2013.

44. WELLS FARGO telephoned MR. ITALIANO at least once on March 22, 2013.

1 45. WELLS FARGO telephoned MR. ITALIANO at least once on March 23, 2013.

2 46. WELLS FARGO telephoned MR. ITALIANO at least once on March 25, 2013.

3 47. WELLS FARGO telephoned MR. ITALIANO at least twice on March 26, 2013.

4 48. WELLS FARGO telephoned MR. ITALIANO at least twice on March 27, 2013.

5 49. WELLS FARGO telephoned MR. ITALIANO at least twice on March 28, 2013.

6 50. WELLS FARGO telephoned MR. ITALIANO at least three times on March 29, 2013.

7 51. WELLS FARGO telephoned MR. ITALIANO at least once on March 30, 2013.

8 52. WELLS FARGO telephoned MR. ITALIANO at least once on April 2, 2013.

9 53. WELLS FARGO telephoned MR. ITALIANO at least once on April 3, 2013.

10 54. WELLS FARGO telephoned MR. ITALIANO at least once on April 4, 2013.

11 55. WELLS FARGO telephoned MR. ITALIANO at least once on April 5, 2013.

12 56. WELLS FARGO telephoned MR. ITALIANO at least once on April 9, 2013.

13 57. WELLS FARGO telephoned MR. ITALIANO at least once on April 10, 2013.

14 58. WELLS FARGO telephoned MR. ITALIANO at least twice on April 11, 2013.

15 59. MR. ITALIANO spoke to a WELLS FARGO representative on April 11, 2013 and told
16 her again that he is not the person they are trying to reach.

17 60. MR. ITALIANO requested again that his name and phone number be removed from
18 WELLS FARGO'S system.

19 61. WELLS FARGO'S representative placed MR. ITALIANO on hold for over five (5)
20 minutes, then came back on the phone and told MR. ITALIANO that his phone number
21 had been removed from the system and that he would no longer receive any phone calls.

22 62. WELLS FARGO'S representative apologized for the inconvenience, however the calls
23 continued.

24 63. WELLS FARGO telephoned MR. ITALIANO at least once on April 12, 2013.

25 64. WELLS FARGO telephoned MR. ITALIANO at least once on April 13, 2013.

65. WELLS FARGO telephoned MR. ITALIANO at least once on April 16, 2013.

66. WELLS FARGO telephoned MR. ITALIANO at least five times on April 22, 2013.

1 67. WELLS FARGO telephoned MR. ITALIANO at least five times on April 23, 2013.

2 68. WELLS FARGO telephoned MR. ITALIANO at least five times on April 24, 2013.

3 69. WELLS FARGO telephoned MR. ITALIANO at least twice on May 17, 2013.

4 70. MR. ITALIANO telephoned WELLS FARGO on May 17, 2013 and again told WELLS
5 FARGO to stop calling him as he was not the person they were looking for.

6 71. MR. ITALIANO asked WELLS FARGO to remove his phone number from their system.

7 72. WELLS FARGO'S representative told MR. ITALIANO that his phone number would be
8 removed from the system.

9 73. WELLS FARGO'S representative apologized to MR. ITALIANO for the inconvenience,
10 however the calls continued.

11 74. WELLS FARGO telephoned MR. ITALIANO at least twice on May 18, 2013.

12 75. WELLS FARGO telephoned MR. ITALIANO at least three times on May 19, 2013.

13 76. WELLS FARGO telephoned MR. ITALIANO at least five times on May 20, 2013.

14 77. WELLS FARGO telephoned MR. ITALIANO at least four times on May 21, 2013.

15 78. WELLS FARGO engaged in conduct the natural consequence which was to abuse and
16 harass, including making repeated and continuous calls and hanging up on MR.
17 ITALIANO.

18 79. WELLS FARGO telephoned MR. ITALIANO with such frequency that would be
19 unreasonable under the circumstances.

20 80. WELLS FARGO made false, deceptive or misleading representations or means in
21 connection with the collection of a debt, at times, hanging up, failing to disclose who was
22 calling and the purpose of the call, and taking action they could not legally take.

23 81. WELLS FARGO engaged in unfair and unconscionable practices in an attempt to collect
24 a debt, including using an automated dialing system, to place telephone calls to MR.
25 ITALIANO'S cell phone, without MR. ITALIANO'S consent.

V. FIRST CAUSE OF ACTION – ROSENTHAL FDCPA

82. Plaintiff repeats, re-alleges, and incorporates by reference all of the paragraphs above as though fully stated herein.

83. The foregoing acts and omissions by these Defendants with respect to Plaintiff in their attempts to collect a consumer debt from Plaintiff constitute numerous and multiple unfair, deceptive, misleading practices made unlawful pursuant to the California Rosenthal Fair Debt Collection Practices Act, including but not limited to Civil Code §§ 1788-1788.32, including §§ 1788.11, 1788.11(d), and 1788.17.

84. Plaintiff is entitled to recover statutory damages, actual damages, reasonable attorney's fees and costs.

VI. SECOND CAUSE OF ACTION – INTRUSION UPON SECLUSION

85. Plaintiff repeats, re-alleges, and incorporates by reference all of the paragraphs above as though fully stated herein.

86. The foregoing acts of Defendants as described herein constitute an invasion of the Plaintiff's privacy and an intrusion upon his right of seclusion.

87. Plaintiff has a common law right to, and a reasonable expectation of privacy, his home and place of employment, and in regard to his private affairs.

88. Defendants' abusive and improper collection practices in the collection of this debt constituted a substantial invasion upon Plaintiff's seclusion and privacy, and would be highly offensive to a reasonable person.

89. Defendants intended to cause emotional distress, and/or engaged in reckless disregard of the probability of causing Plaintiffs emotional distress.

1 90. As a proximate result of Defendants' conduct, Plaintiff has suffered damages in an
2 amount to be determined by proof and a finder of fact at trial.

3 91. Defendants acted with oppression, fraud, and/or malice, thereby entitling Plaintiff to
4 punitive damages in an amount according to proof and a finder of fact at trial.

5 **VII. THIRD CAUSE OF ACTION - TCPA**

6 92. Plaintiff repeats, re-alleges and incorporates by reference all other paragraphs.

7 93. At all times relevant to this complaint, the Plaintiff was and is a "person" as defined by
8 the TCPA 47 U.S.C. § 153(32).

9 94. At all times relevant to this complaint, the Defendant has owned, operated, and or
10 controlled "customer premises equipment" as defined by the TCPA 47 U.S.C. § 153(14)
11 that originated, routed, and/or terminated telecommunications.

12 95. The Defendant at all times relevant to the complaint herein engages in
13 "telecommunications" defined by the TCPA U.S.C § 153(43).

14 96. The Defendant at all times relevant to the complaint herein engages in "interstate"
15 communications" by the TCPA U.S.C. § 153(22).

16 97. At all times relevant to this complaint, the Cross-Defendant has used, controlled, and/or
17 operated "wire communications" as defined by the TCPA 47 U.S.C. § 153(52), that
18 existed as instrumentalities of interstate and intrastate commerce.

19 98. At all times relevant to this complaint, the Cross-Defendant has used, controlled, and/or
20 operated "automatic telephone dialing systems" as defined by the TCPA 47 U.S.C. §
21 227(a)(1) and 47 C.F.R. § 64.1200 (f) (1).

22 99. Defendant violated the TCPA, 47 U.S.C. § 227(b)(1)(A), by using an automatic
23 telephone dialing system to telephone Plaintiff's cellular phone in an attempt to collect an
24 alleged debt.
25

1 100. Defendant frequently made calls to Plaintiff's cell phone using an automatic telephone
2 dialing system (including an automated dialing machine, dialer, and auto-dialer) and/or
3 an artificial or prerecorded voice.

4 101. Defendants violated the Telephone Consumer Protection Act ("TCPA") 47 U.S.C. §
5 227(b)(1)(A), by using an automatic telephone dialing system to telephone a cellular
6 phone, without Plaintiff's consent.

7 102. Defendants' violations were willful and knowing.

8 103. As a result of these violations of the TCPA, Defendants are liable to Plaintiff for statutory
9 damages, including treble damages.

10 104. Defendants engaged in willful and knowing violations of the Telephone Consumer
11 Protection Act ("TCPA") 47 U.S.C. § 227(b)(1)(A).

12 105. Defendants' acts were willful, intentional and knowing.

13 106. Defendants acted with oppression, fraud, and/or malice, thereby entitling Plaintiff to
14 punitive damages in an amount according to proof and a finder of fact at trial.

15 107. Plaintiff is entitled to recover actual and punitive damages.

16 **VIII. FOURTH CAUSE OF ACTION – NEGLIGENCE**

17 108. Plaintiff repeats, re-alleges, and incorporates by reference all of the paragraphs above as
18 though fully stated herein.

19 109. Defendants' outrageous, abusive and intrusive acts as described herein constituted
20 negligent infliction of emotional distress.

21 110. Plaintiff suffered (1) serious emotional distress, (2) actually and proximately caused by
22 (3) wrongful conduct (4) by a defendant who should have foreseen that the conduct
23 would cause such distress.

24 111. Defendants' conduct as described herein was wrongful conduct in that the Defendants
25 conducted their business in an abusive, oppressive, and harassing manner.

1 112. Defendants' actions and omissions as described herein constitute negligence in that
 2 Defendants owed Plaintiff a duty of reasonable care in the collection of the alleged debt,
 3 and use of the telephone in an attempt to collect such debts, said duties were breached,
 4 and said breach was the proximate cause of damages suffered by Plaintiff.

5 113. Defendants owed a duty to refrain from outrageous and unlawful calls in connection with
 6 their attempts to collect a debt.

7 114. Defendants' actions and omissions demonstrate a conscious disregard of the rights or
 8 safety of others, and constitute despicable conduct that subjected Plaintiff to cruel and
 9 unjust hardship in conscious disregards of his rights.

10 115. Plaintiff suffered damages due to Defendants' actions in an amount to be determined at
 11 trial.

12 116. Plaintiff is entitled to punitive damages for the actions and omissions of the Defendants
 13 as described herein.

14
 15 **IX. FIFTH CAUSE OF ACTION – NEGLIGENT TRAINING AND SUPERVISION**

16
 17 117. Plaintiff incorporates by reference the above paragraphs as though fully stated herein
 18 below.

19 118. Defendant negligently trained and supervised their employees and agents as to the
 20 performance of their job duties and as a result of such negligent instruction and
 21 supervision, the employees/agents while carrying out their job duties caused injury and
 22 damage to Plaintiff.

23 119. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff has suffered
 24 damages in an amount to be determined at trial.

25 120. Defendant acted with oppression, and/or malice, thereby entitling Plaintiff to punitive
 damages in an amount to be determined at trial. Defendant acted in a despicable manner
 and acted with a conscious disregard to the rights of Plaintiff.

1 WHEREFORE, Plaintiff respectfully prays that judgment be entered against the
2 Defendants for the following:

- 3 A. Statutory and actual damages pursuant to California Civil Code § 1788 et seq..
4 B. Costs and reasonable attorney's fees pursuant to Civil Code 1788 et seq.
5 C. Actual and punitive damages.
6 D. Award statutory damages in the amount of \$500.00 for each violation of the
7 TCPA against all of the Defendants, and/or treble damages for each willful or
8 knowing violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).
9 E. For such other and further relief as may just and proper.
10

11 Respectfully submitted,

12
13 /s/Ronald Wilcox
Ronald Wilcox, Attorney for Plaintiff

6/7/13
Date

14
15 **DEMAND FOR JURY TRIAL**

16 Please take notice that Plaintiff demand trial by jury in this action.

17 /s/Ronald Wilcox
Ronald Wilcox

6/7/13
Date

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Charles Ryan Italiano

(b) County of Residence of First Listed Plaintiff San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Ronald Wilcox, Bar No. 176601

1900 The Alameda Suite 530

San Jose, CA 95126 408-296-0400

DEFENDANTS

Wells Fargo Bank, N.A., and DOES 1-10

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

'13CV1323 BTM JMA**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. 1692 et seq. violations of the Fair Debt Collection Practices Act; & CA Civil Code 1788 et seq. violation

Brief description of cause:

Unlawful collection practices

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

06/07/2013

SIGNATURE OF ATTORNEY OF RECORD

/s/Ronald Wilcox

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.